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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,794	06/19/2001	Elizabeth C. Sanchez	5266-04000	6916

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p><b>Application No.</b></p> <p align="center">09/885,794</p>	<p><b>Applicant(s)</b></p> <p align="center">SANCHEZ ET AL.</p>	
	<p><b>Examiner</b></p> <p align="center">Vivek Srivastava</p>	<p><b>Art Unit</b></p> <p align="center">2611</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1, 2</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-7, 9, 10, 16, 25-28, 30, 31, 33 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Shintani (5,668,591).**

**Regarding claim 1,** Shintani discloses a system for facilitating product purchases (see shopping in col 4 lines 62 – 67) in an interactive television system (see col 1 lines 9-12). Shintani further inherently discloses a first source which is configured to convey a broadcast stream (a first source provides a television stream with television programming) and inherently discloses a second source which is configured to convey interactive software applications for downloading to a cable box (see col 4 lines 58 – 67). Shintani further discloses executing the software or interactive applications (see col 2 lines 13 – 22) to receive shopping data or first data corresponding to products a user can buy (see col 2 lines 3 – 12, col 4 lines 62 – 67, col 5 lines 56 – 64). Shintani further discloses a user place an order and buy specified product (see col 5 lines 56-63).

**Regarding claim 2**, Shintani discloses a center which inherently comprises a first source and second source are located within a broadcast station (see col 3 lines 40-45).

**Regarding claim 3**, Shintani discloses shopping data or first data, wherein the shopping data is received by the downloaded interactive application software via said broadcast stream (see col 3 lines 40-43).

**Regarding claim 4**, Shintani discloses transmitting shopping data upstream to a server center via the cable box. It is noted that since the interactive application is stored in the cable box, the interactive software application is configured to receive the first data of shopping data from the handheld computing device.

**Regarding claim 5**, Shintani further discloses wherein said interactive application is further executable to detect the presence of the shopping within the broadcast stream, present an indication of said presence of said first data or shopping data in the broadcast stream receiving input corresponding to said indication (i.e. selection by a user for products, see col 3 lines 40-43, col 4 lines 63-67, col 5 lines 56-63). Shintani further discloses downloading and thus inherently storing shopping data transmitted from the cable box to the remote control, noting that first data is data transmitted from the central server center to the cable box and second data is data transmitted from the cable box to the remote control (see col 4 lines 62 – 67, col 5 lines 55 – 63).

**Regarding claim 6**, Shintani discloses a cable box receiver which executes downloaded interactive software applications (see col 1 lines 1-15).

**Regarding claim 7**, Shintani inherently discloses the claimed limitation of tagging said first broadcast stream with first data since the first data is included in and thus 'tagged' in the first data stream.

**Regarding claim 9**, Shintani discloses a second storage device coupled to able to receive data from a receiver (see memory 13 in fig. 1).

**Regarding claim 10**, Shintani discloses cable box or settop box (see col 3 lines 1-15).

**Claims 16, and 37** are met by the discussions above.

**Regarding claim 25**, claim 25 recites the same limitations above and is thus those limitations are rejected as discussed above. Claim 25 further recites a mechanism met controller 2 in fig 1, which detects the presence of first data or shopping data corresponding to a product within the broadcast stream. Claim 25 also recites the controller also presents an indication of the presence of first data, receives input corresponding the indication, wherein the indication is initiated by a viewer, stores a second data corresponding to the user input as discussed above. Claim 25 also recites retrieving the second data and utilizing the second data to initiate a purchase request (see col 5 lines 55-63).

**Regarding claim 26**, Shintani further discloses the controller inherently comprises a processor since program instructions are executed (see col 3 lines 1-15).

**Regarding claim 27**, Shintani further discloses cable net interface 4 or 'receiver' to receive a interactive software application wherein the controller executes the interactive application (see col 3 lines 1-15).

**Regarding claim 28**, Shintani discloses a display 14 coupled to controller 2 (see fig 1).

**Regarding claim 30**, Shintani discloses a storage device 13 coupled to controller 2, wherein second data is transmitted from cable box 1 to remote controller 10 (see fig 1).

**Claims 31 and 33** are met by the discussions above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 8, 11-13, 17-24, 29, 32, 38, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shintani (5,668,591) in view of Kenney (6,026,376 – cited by Applicants).**

**Regarding claims 8, 11, 29 and 32**, Shintani fails to disclose the claimed wherein said indication is presented on a display coupled to said receiver, and wherein said indication is presented concurrently with a second presentation corresponding to said first product on display and the claimed wherein presenting the first product

comprises presenting said first product as an item for purchase in a virtual shopping cart, wherein said virtual shopping cart is presented on display by second mechanism.

Kenney teaches a product or indication is concurrently displayed with a shopping cart or a second presentation. Kenney further teaches the product can be examined and placed in the shopping cart (col 7 lines 1-24). It would have been obvious including this virtual shopping experience in Shintani would have provided a more realistic and pleasurable shopping experience for the user. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed limitations to provide a more realistic and pleasurable shopping experience.

**Regarding claim 12**, the combination of Shintani and Kenney teach the claimed limitations wherein Shintani teaches initiating a purchase request for said first product is in response to interacting by the user (see col 5 lines 56 – 63) and Kenney discloses the claimed virtual shopping cart (see col 7 lines 1 – 24).

**Regarding claim 13**, the combination of Shintani and Kenney teach the claimed limitation, wherein Kenney teaches conveying the shopping list to on-line retailer for pickup by the shopper (see col 7 lines 28 – 33).

**Regarding claim 17**, Shintani discloses storing data transmitted from cable box 1 to remote controller 10 or 'second data' (see fig 1) into memory 13 and retrieving second data and utilizing second data to present first product for an item as purchase (see col 5 lines 55-63).

Shintani fails to disclose the claimed virtual shopping cart. Kenney teaches a product or indication is concurrently displayed with a shopping cart or a second presentation. Kenney further teaches the product can be examined and placed in the shopping cart (col 7 lines 1-24). It would have been obvious including this virtual shopping experience in Shintani would have provided a more realistic and pleasurable shopping experience for the user. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed limitations to provide a more realistic and pleasurable shopping experience.

**Claims 18 and 19** are met by that discussed above.

**Regarding claim 20**, Shintani fails to disclose the claimed receive third data conveyed from a first device, wherein said third data is not conveyed via broadcast stream and storing said third data..

The Examiner takes Official Notice it would have been well known in art to provide and store third data or additional data regarding an advertised product or second data transmitted via a different broadcast means and hence stream to provide a user with additional detailed information regarding the product. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed limitation to provide a user with additional information regarding the product.

**Claims 21 – 23** are met by discussions above.

**Considering claim 24**, the combination of Shintani and Kenney fails to disclose conveying third data corresponding to said second data to a handheld device.



The Examiner takes Official Notice it would have been well known in art to provide and store third data or additional data regarding an advertised product or second data transmitted via a different broadcast means and hence stream to provide a user with additional detailed information regarding the product. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed of conveying third data corresponding to the second data the handheld device to provide a user with additional information regarding the product.

**Claims 38, 39 and 41** are met by the discussions above.

**Claims rejected under 35 U.S.C. 103(a) as being unpatentable over Shintani (5,668,591).**

**Regarding claim 14**, Shintani fails to disclose the claimed wherein the interactive application is further executable to convey a third data corresponding to said second data to a first device.

The Examiner takes Official Notice it would have been well known in art to provide third data or additional data regarding an advertised product or second data to provide a user with additional detailed information regarding the product. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed limitation to provide a user with additional information regarding the product.

**Regarding claim 15**, Shintani discloses a portable handheld remote control or PDA (see col 3 lines 21-29).

**Regarding claim 34**, Shintani fails to disclose the claimed receive third data conveyed from a first device, wherein said third data is not conveyed via broadcast stream and storing said third data..

The Examiner takes Official Notice it would have been well known in art to provide and store third data or additional data regarding an advertised product or second data transmitted via a different broadcast means and hence stream to provide a user with additional detailed information regarding the product. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed limitation to provide a user with additional information regarding the product.

**Claim 35** is met by the discussions above.

**Considering claim 36**, Shintani fails to disclose conveying third data corresponding to said second data to a handheld device.

The Examiner takes Official Notice it would have been well known in art to provide and store third data or additional data regarding an advertised product or second data transmitted via a different broadcast means and hence stream to provide a user with additional detailed information regarding the product. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed of conveying third data corresponding to the

second data the handheld device to provide a user with additional information regarding the product.

**Regarding claim 40**, Shintani fails to disclose the claimed receive third data conveyed from a first device, wherein said third data is not conveyed via broadcast stream and storing said third data and utilizing the third data to present an item corresponding to said third data as an item for purchase in said virtual shopping cart.

The Examiner takes Official Notice it would have been well known in art to provide, store and utilize third data or additional data regarding an advertised product or second data transmitted via a different broadcast means and hence stream to provide a user with additional detailed information regarding the product to enable purchase of the product . Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Shintani to include the claimed limitation to provide a user with additional information regarding the product to help the user purchase the product.

**Claim 42** is met by the above discussions.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dugan (6,811,516) – PDA utilized for grocery shopping

Ogaswara (6,543,052) – Set-top Internet shopping system


Art Unit: 2611

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (703) 305-4038. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs  
12/10/04

  
VIVEK SRIVASTAVA  
PRIMARY EXAMINER